

Appln. No. 10/693,725  
Amendment dated January 10, 2005  
Reply to Office Action mailed October 15, 2004

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### REMARKS

Reconsideration is respectfully requested.

Claims 1 through 11 remain in this application. No claims have been cancelled or withdrawn. Claims 12 through 20 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

#### Paragraphs 1 and 2 of the Office Action

Claims 2, 5, 7 and 11 have been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

The above amendments to the claims are believed to clarify the requirements of the rejected claims, especially the particular points identified in the Office Action.

Withdrawal of the §112 rejection of claims 2, 5, 7 and 11 is therefore respectfully requested.

#### Paragraphs 3 through 6 of the Office Action

Claims 1, 2, 4 and 5 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ellison No. 6,478,113 in view of Boughner No. 5,423,397.

Claims 8 through 10 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ellison No. 6,478,113 in view of Boughner No. 5,423,397 as applied to claims 1, 2, 4 and 5 above, and further in view of Fleischer No. 3,724,592.

Claim 1 requires, in part, "the lower stabilizer assembly comprising a pair of outboard foot assemblies with a position of each of the outboard foot assemblies being *laterally adjustable with respect to the rails of the ladder*

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assembly such that *a lateral spacing of the pair of outboard foot assemblies is adjustable*" (emphasis added). This feature of the invention permits the user to adjust the relationship of the outboard foot assemblies with respect to the rails of the ladder, so that in those situations where enhanced stability is needed, the user is able to simply extend the outboard foot assembly further from the rail of the ladder to extend and increase the lateral spacing between the outboard foot assemblies.

In contrast, the Boughner patent, which is relied upon in the Office Action for allegedly teaching this feature of the claimed invention, shows a pair of receipt tube uprights 40 and 42 that are connected together by upper and lower support tubes 32 and 34 and upper and lower receipt tubes 36 and 38 that receive the upper and lower support tubes. The sole means for holding the lateral positions of the receipt tube uprights is the lock pin 56 and the single aperture 60 in the upper receipt tube 36 and the single aperture 61 in the upper support tube 32. This structure provides only a single spacing distance between the receipt tube uprights when mounted on the ladder. This is evident not only from the drawings of the Boughner patent, but also from the text of the patent, such as at col. 2, lines 47 through 50:

In use, lower support tube 32 and upper support tube 34 in one embodiment can extend approximately 20 inches laterally outward from both right side rail 12 and left side rail 14.

and also at col. 3, lines 4 through 11:

The receipt tube members can be locked in place on the support tubes by locking means such as by having pairs of lockpin apertures 60 and 61 formed, respectively, through upper receipt tube 36 and upper support tube 34 which apertures, when aligned, allow lock pin 56 to be passed therethrough which pin can be held in place by lock pin catch clip 58 seen in FIG. 2.

Thus, and although the Boughner patent makes some mention of the range of spacings of the receipt tube upright and the associated base members away from the legs of the ladder, it is clear that the Boughner apparatus can only

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be set at one distance from the ladder, whatever that distance may be, and is not adjustable between two or more lateral spacing distances.

Again, this teaching of the Boughner patent is in complete contrast to the requirements of claim 1, especially those quoted above, and is also in contrast to the structure of the illustrative embodiment of the present invention. It is therefore submitted that the Boughner patent, either alone or in the allegedly obvious combination with the Ellison patent and the Fleischer patent, could not lead one of ordinary skill in the art to the invention as claimed in claim 1 of the present patent application.

This contrast between the claimed invention and the structure of the Boughner structure is even further evident when claim 2 is considered, which requires "the upper lateral brace arm having a plurality of apertures formed therein for receiving a pin when the upper lateral brace arm is at more than one lateral spacing from one of the rails of the ladder assembly" and "the lower lateral brace arm having a plurality of apertures formed therein for receiving a pin when the lower lateral brace arm is at more than one lateral spacing from one of the rails of the ladder assembly". This feature of the invention, disclosed, for example, in Figure 3 of the drawings, is also submitted to be foreign to the disclosure of the Boughner patent to those skilled in the art who consider Boughner's teaching.

Withdrawal of the §103(a) rejection of claims 1, 2, 4, 5, and 8 through 10 is therefore respectfully requested.

**Paragraph 7 of the Office Action**

Paragraph 7 of the Office Action states that claims 3, 6 and 7 would be allowable if written into independent form with the limitations of the base claim and any intervening claims.

The above amendment incorporates the limitations of claim 1 (in its as-filed form) into the recitation of claim 3, and therefore claim 3, as well

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as the claims that depend from claim 3, are believed to be in condition for allowance.

The above amendment incorporates the limitations of claim 1 (in its as-filed form) into the recitation of claim 6, and therefore claim 6, as well as the claims that depend from claim 6, are believed to be in condition for allowance.


### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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